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4   UNITED STATES DISTRICT COURT

5   NORTHERN DISTRICT OF CALIFORNIA

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7   AVNER GREENWALD,
                                          Case No. 18-cv-04790-PJH
8   Plaintiff,

9   v.
                                          **ORDER DENYING DEFENDANTS'
10   RIPPLE LABS, INC., et al.,   MOTION TO STAY REMAND**

11   Defendants.   Re: Dkt. No. 25, 26

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13   On August 8, 2018, defendants removed this action pursuant to the Class Action

14   Fairness Act. On October 15, 2018, the court granted plaintiff's motion to remand the

15   action to San Mateo Superior Court. Dkt. 23. The court is now in receipt of defendants'

16   motion to stay that order based on defendants' intention to file an application to appeal.

17   See 28 U.S.C. § 1453(c)(1) (providing that "a court of appeals may accept an appeal

18   from an order of a district court granting or denying a motion to remand a class action to

19   the State court from which it was removed if application is made to the court of appeals

20   not more than 10 days after entry of the order").

21   Fatal to defendants' motion is that the Clerk of Court has already effectuated the

22   remand to San Mateo County Superior Court. See Dkt. 24. As such, a determination on

23   defendants' motion would require the court to vacate its remand order, which the court is

24   not willing to do. Accordingly, defendants' motion to stay is DENIED and defendants'

25   related motion to shorten the briefing schedule on the motion to stay is DENIED as moot.

26   The court notes that if the Ninth Circuit ultimately agrees with defendants, nothing

27   prevents this court from reopening this action and ordering an amended notice of

28   removal. See Broadway Grill, Inc. v. Visa Inc., No. 16-CV-04040-PJH, 2016 WL

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6069234, at *1 (N.D. Cal. Oct. 17, 2016) (denying motion to stay remand order); Broadway Grill, Inc. v. Visa Inc., 856 F.3d 1274, 1279 (9th Cir. 2017) (reversing district court's remand order); Broadway Grill, Inc. v. Visa Inc., No. 16-CV-04040-PJH, Dkt. 48 (reopening case and ordering defendants to file an amended notice of removal in San Mateo County Superior Court).

IT IS SO ORDERED.

Dated: October 17, 2018

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PHYLLIS J. HAMILTON
United States District Judge